

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION**

In re:

**Darren R. Barney
Tracey L. Howell-Barney fka
Tracey L. Howell**

Debtor.

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: **Case No.: 19-10110**
: **Chapter 7**
: **Chief Judge Robert E. Grant**
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**MOTION FOR RELIEF FROM AUTOMATIC STAY AND ABANDONMENT OF
PROPERTY BECAUSE STATEMENT OF INTENT PROPOSES SURRENDER OF
PROPERTY AND NOTICE OF OBJECTION DEADLINE WITH 30-DAY WAIVER
(FIRST MORTGAGE)**

The creditor, The Bank of New York Mellon as Trustee for CWABS, Inc. Asset-Backed Certificates, Series 2006-11, hereby moves the Court, pursuant to 11 U.S.C. § 362(d) and § 554, to lift the automatic stay and abandon from the estate the following real property:

11212 Knollton Run, Fort Wayne, IN 46818-8522, (hereinafter the "Property").

In support of the motion, the Creditor states the following:

1. Darren R. Barney and Tracey L. Howell-Barney fka Tracey L. Howell (hereinafter collectively, "Debtor") filed a Chapter 7 case on January 31, 2019, (hereinafter the "Petition Date").
2. As of the Petition Date, the Creditor was the holder of a claim secured by the Property, more particularly described in the Mortgage, a copy of which is attached as Exhibit "A".
3. The above described Mortgage was given to secure an Adjustable Rate Note, (hereinafter the "Note"), dated June 20, 2006 and made payable to the Creditor in the original sum of \$129,672.11. A copy of the Note is attached hereto as Exhibit "B".

4. The Creditor perfected an interest in the Property, more particularly described in the Mortgage, recorded in Allen County Recordings Office on June 28, 2006. Evidence of perfection is attached as Exhibit "A".

5. The loan was modified as set forth in the Loan Modification Agreements attached as Exhibit "C" and Exhibit "D".

6. Select Portfolio Servicing, Inc. services the loan on the property referenced in this Motion. In the event the automatic stay in this case is modified, this case dismisses, and/or the debtor obtains a discharge and a foreclosure action is commenced on the mortgaged property, the foreclosure will be conducted in the name of The Bank of New York Mellon as Trustee for CWABS, Inc. Asset-Backed Certificates, Series 2006-11 "Noteholder." Noteholder, directly or through an agent, has possession of the promissory note. The promissory note is either made payable to Noteholder or has been duly endorsed. Noteholder is the original mortgagee or beneficiary or the assignee of the security instrument for the referenced loan.

7. As of March 6, 2019, the outstanding principal of the Note was \$230,794.75 and the outstanding interest was \$1,758.30. As of March 6, 2019, the approximate payoff of the loan in question, consisting of the outstanding principal, interest, escrow advances, fees and costs is \$242,406.13.

8. The Property is burdensome and/or of inconsequential value and benefit to the estate. Cause exists to lift the automatic stay under 11 U.S.C. § 362(d)(1) and/or 362(d)(2) for these reasons:

- a. Debtor has no equity in the Property. Creditor believes that the Property has a value of \$175,000.00 based on Schedule D, which is attached hereto as Exhibit "E". The balance on Creditor's first mortgage exceeds the value of the Property. Based upon the lack of equity in the Property, Creditor asserts that the Property is burdensome and/or of inconsequential value and benefit to the estate.

- b. The Creditor is not being adequately protected. Per the Note and Mortgage, payments are applied to the last month due. Based on the foregoing, Debtor has failed to make periodic payments to Creditor since February 1, 2019 through March 1, 2019.
- c. Debtor intends to surrender the Property located at 11212 Knollton Run, Fort Wayne, IN 46818-8522 according to the Statement of Intent filed.

9. The Creditor hereby waives the right under 11 U.S.C. § 362(e) to a hearing on this motion within thirty (30) days of the date it is filed. Creditor, by counsel, further prays that the fourteen (14) day stay of the order imposed by Bankruptcy Rule 4001(a)(3) be waived.

PLEASE TAKE NOTICE THAT any objection must be filed with the Bankruptcy Clerk within fourteen (14) days of the date of this notice. Those not required or not permitted to file electronically must deliver any objection by U.S. mail, courier, overnight/express mail or in person at:

Fort Wayne
1300 South Harrison Street
Room 1188
Fort Wayne, IN 46802-3435

The objecting party must ensure delivery of the objection to the party filing the motion. If an objection is NOT timely filed, the requested relief and abandonment may be granted.

WHEREFORE, the Creditor moves the Court to enter an order lifting the automatic stay and abandoning the Property, and granting such other relief as appropriate.

Respectfully submitted,

/s/ Amy E. Gardner

Sarah E. Barngrover (28840-64)

Edward H. Cahill (0088985)

Adam B. Hall (0088234)

John R. Cummins (11532-10)

Amy E. Gardner (93532)

Manley Deas Kochalski LLC

P.O. Box 165028

Columbus, OH 43216-5028

614-220-5611; Fax: 614-627-8181

Attorney for Creditor

The case attorney for this file is Sarah E. Barngrover.

Contact email is

sebarngrover@manleydeas.com

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from Automatic Stay and Abandonment of Property Because Statement of Intent Proposes Surrender of Property and Notice of Objection Deadline with 30-Day Waiver (First Mortgage) was served on the parties listed below via e-mail notification:

Nancy J. Gargula, 100 East Wayne Street, 5th Floor, South Bend, IN 46601-2349, 574-236-8105

Martin E. Seifert, 444 East Main Street, Fort Wayne, IN 46802

Dennis G Golden, Attorney for Darren R. Barney and Tracey L. Howell-Barney fka Tracey L. Howell, 822 Mill Lake Road, Fort Wayne, IN 46845, dgolden@goldenlaw.biz

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from Automatic Stay and Abandonment of Property Because Statement of Intent Proposes Surrender of Property and Notice of Objection Deadline with 30-Day Waiver (First Mortgage) was served on all parties listed on the attached creditor matrix via regular U.S. Mail, postage prepaid on March 29, 2019.

/s/ Amy E. Gardner

Label Matrix for local noticing
0755-1
Case 19-10110-reg
Northern District of Indiana
Fort Wayne Division
Fri Mar 29 07:33:20 EDT 2019

AES/CIT ED
PO Box 61047
Harrisburg, PA 17106-1047

AT&T Mobility
PO Box 6416
Carol Stream, IL 60197-6416

Accelcare
PO Box 92878
Dept 385
Rochester, NY 14692-8978

Allen County Treasurer
1 East Main Street Suite 104
Fort Wayne IN 46802-1888

Allen County Treasurer
1 East Main Street, Room 100
Fort Wayne, IN 46802-1804

Allied Hospital Pathologist
4245 Reliable Parkway
Chicago, IL 60686-0042

Allied Imaging
P.O. Box 11556
Fort Wayne, IN 46859-1556

(p)AMERICOLLECT INC
PO BOX 2080
MANITOWOC WI 54221-2080

Americollect
PO Box 1505
Manitowoc, WI 54221-1505

Darren R. Barney
11212 Knollton Run
Fort Wayne, IN 46818-8522

Sarah E. Barngrover
Manley Deas Kochalski LLC
P.O. Box 165028
Columbus, OH 43216-5028

Beckman Lawson, LLP
201 West Wayne Street
Fort Wayne, IN 46802-3605

Brian Heck
201 West Wayne St
Fort Wayne, IN 46802-3605

CBCS
P.O. Box 163333
Columbus, OH 43216-3333

Capital One Auto Finance
a division of Capital One, N.A. Dept
AIS Portfolio Services, LP
Account: XXXXXXXX0379
4515 N Santa Fe Ave, Dept. APS
Oklahoma City, OK 73118-7901

Capital One Auto Finance, a division of Capi
4515 N Santa Fe Ave. Dept. APS
Oklahoma City, OK 73118-7901

Collection Service Bureau
PO Box 310
Scottsdale, AZ 85252-0310

Collections Practice Group
201 West Wayne Street
Fort Wayne, IN 46802-3605

Day Knight & Associates
15559 Manchester Road
Ballwin, MO 63011-3001

Dermatology & Laser Associates
10602 Corporate Drive
Suite A
Fort Wayne, IN 46845-1711

Diversified Collection Services, Inc.
P.O. Box 9057
Pleasanton, CA 94566-9057

Doyle & Foutty PC
41 E. Washington Street
Suite 400
Indianapolis, IN 46204-3517

Dupont Hospital
15682 Collecions Center Drive
Chicago, IL 60693-0156

Dupont Hospital
C/O Bank of America Processing Center
15682 Collections Center Drive
Chicago, IL 60693-0001

Ear, Nose, Throat Associates
10021 Dupont Circle
Fort Wayne, IN 46825-1604

Education Loan Servicing
1 CIT DR.
Livingston, NJ 07039-5703

Edward Hospital
PO Box 4207
Carol Stream, IL 60197-4207

Emergency Medicine of IN, LLC
P.O. Box 12617
Fort Wayne, IN 46864-2617

FBGS
330 S. Warminster Rd.
Suite 353
Hatboro, PA 19040-3433

FWRadiology
4819 Solutions Center
Chicago, IL 60677-4008

Forefront Dermatology
801 York Street
Manitowoc, WI 54220-4630

Fort Wayne Neurology
P.O. Box 11789
Fort Wayne, IN 46860-1789

Fort Wayne Radiology
Lockbox A20
PO Box 2601
Fort Wayne, IN 46801-2601

Nancy J. Gargula
100 East Wayne Street, 5th Floor
South Bend, IN 46601-2349

Dennis G. Golden
822 Mill Lake Road
Fort Wayne, IN 46845-6400

Great Lakes Higher Education
P.O. Box 7860
Madison, WI 53707-7860

Hanger Orthopedic Group Inc
Cares Lockbox
62556 Collections Center Drive
Chicago, IL 60693-0625

Tracey L. Howell-Barney
11212 Knollton Run
Fort Wayne, IN 46818-8522

(p)INDIANA DEPARTMENT OF REVENUE
ATTN BANKRUPTCY
100 N SENATE AVE
INDIANAPOLIS IN 46204-2253

Indiana Employment Security Division
10 North Senate Street
Indianapolis, IN 46204-2201

Indiana Physical Therapy
4251 Lahmeyer Road
Fort Wayne, IN 46815-5676

Inquest Health System
P.O. Box 8857
Fort Wayne, IN 46898-8857

Law office of David W. Edwards
1410 Industrial Park Rd., Ste 101
PO Box 910
Paris, TN 38242-0910

Lincare Inc.
PO Box 105760
Atlanta, GA 30348-5760

MSCB, Inc.
P.O. Box 1567
Paris, TN 38242-1567

MedExpress Billing
ATTN #7964C
PO Box 14000
Belfast, ME 04915-4033

Medical & Dental Business Bureau
333 E Washington Blvd
PO Box 11285
Fort Wayne, IN 46857-1285

Medical Recovery Specialist, LLC
2250 E Devon Avenue
Suite 352
Des Plaines, IL 60018-4519

Merchants Credit Guide
223 West Jackson Blvd., Suite 900
Chicago, IL 60606-6912

Naperville Radiologist S.C.
6910 S Madison Street
Willowbrook, IL 60527-5577

North Shore Agency-ND4
PO Box 9205
Old Bethpage, NY 11804-9005

Oak Glen Community Association, Inc
429 E. Dupont Rd.
PMB 163
Fort Wayne, IN 46825-2051

Orthopaedics Northeast, PC.
5050 North Clinton St.
Fort Wayne, IN 46825-5886

Orthopaedics NorthEast, PC
P.O. Box 11782
Fort Wayne, IN 46860-1782

Parkview Health
PO Box 10416
Des Moines, IA 50306-0416

Premiere Credit of North America, LLC
P.O. Box 19309
Indianapolis, IN 46219-0309

Professional Account Services, Inc.
P.O. Box 188
Brentwood, TN 37024-0188

Professional Emergency Physicians
3640 New Vision Drive, Suite A
Fort Wayne, IN 46845-1717

Professional Recovery Inc.
7319 West Jefferson Blvd.
Fort Wayne, IN 46804-6237

Redimed/QHG of Fort Wayne
15897 Collection Center Drive
Chicago, IL 60693-0001

Martin E. Seifert
444 East Main Street
Fort Wayne, IN 46802-1911

Snow & Sauerteig LLP
203 East Berry Street, Suite 1100
Fort Wayne, IN 46802-2715

Statewide Credit Association
P.O. Box 20508
Indianapolis, IN 46220-0508

(p)STUCKY LAUER & YOUNG LLP
127 W BERRY ST STE 900
FORT WAYNE IN 46802-2300

Summit Radiology, PC
Lockbox A29
PO Box 2603
Fort Wayne, IN 46801-2603

Suntrust American Education Services
PO Box 61047
Harrisburg, PA 17106-1047

The Bank of New York Mellon
300 N Meridian St # 910
Indianapolis, IN 46204-1753

Thomas Law Firm, P.C.
11623 Coldwater Road, Suite 104
Fort Wayne, IN 46845-1282

Thomas Law Firm, P.C.
P.O. Box 80483
Fort Wayne, IN 46898-0483

Tice Associates
1261 Kenmore Ave.
Buffalo, NY 14217-2856

(p)TICE ASSOCIATES INC
PO BOX 646
BUFFALO NY 14217-0646

Wells Fargo Dealer Services
P.O. Box 17900
Denver, CO 80217-0900

X-OUT
95 Old Shoals Road
Dept. C
Arden, NC 28704-9401

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Americollect
P.O. Box 1566
Manitowoc, WI 54221

Indiana Department of Revenue
Bankruptcy Section - MS 108
100 North Senate Avenue, N240
Indianapolis IN 46204

Stucky, Lauer & Young LLP
127 West Berry St
Suite 900
Fort Wayne, IN 46802

Tice Associates Inc
1261 Kenmore Ave
Buffalo, NY 14217

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)The Bank of New York Mellon

(u)Transworld Systems Inc.
500 Virginia Drive
Suite 514
PA 19000

End of Label Matrix
Mailable recipients 73
Bypassed recipients 2
Total 75